

## **II. REMARKS**

### ***A. State of the Claims***

Claims 73-75, 85-92, and 94-101 were pending at the time of the Action. Claims 73 and 92 have been amended without prejudice or disclaimer in the Amendment submitted herewith. Claims 74, 75, 85-87, 89, 94-97, and 99 have been cancelled without prejudice or disclaimer. Therefore, claims 73, 88, 90-92, 98, 100, and 101 are presently pending.

### ***B. The Current Claims Fulfill the Written Description Requirement***

The Action rejected then pending claims 73-75, 86-92, and 94-101 under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It further states that the application does not provide sufficient written description for a human sentrin 1 gene or polypeptide that has a nucleotide sequence other than SEQ ID NO: 1 or an amino acid sequence other than SEQ ID NO: 2.

Applicant has traversed this rejection in the past, and continues to disagree with the Action's position. However, Applicant would respectfully point out that the current claims specifically recite SEQ ID NO: 1 and SEQ ID NO: 2. Therefore, this rejection is moot in regard to those claims, and applicant requests withdrawal of this rejection.

Applicant in no way acquiesces in the propriety of the previous rejections and maintains all rights to assert any scope of claims in any further applications.

### ***C. The Current Claims are Enabled under 35 U.S.C. § 112, First Paragraph***

The Action rejected previous claims 73-75, 85-92, and 94-101 under 35 U.S.C. § 112, first paragraph, for allegedly not reasonably providing enablement for methods of inhibiting any

apoptotic pathway in cells *in vitro* or *in vivo* by administering any vector encoding any portion of the nucleic acid or amino acid sequences of SEQ ID NO:1 or SEQ ID NO:2. The Action admits the specification is enabling for a method of inhibiting Fas or TNFRI mediated apoptosis in cells *in vitro* comprising transfecting said cells with a nucleic acid expression construct encoding a nucleic acid comprising SEQ ID NO:1. However, it concludes that it would require undue experimentation to practice the scope of the invention now claims because of the high level of unpredictability in the art for treating diseases using recombinant vectors, the lack of guidance provided in the specification for the parameters affecting vector delivery and gene expression *in vivo*, the lack of correlation between Applicant's *in vitro* working examples and the therapeutic inhibition of apoptosis in a mammal, and the breadth of the claims. Applicant respectfully traverses this rejection.

Applicant has traversed this rejection in the past, and continues to disagree with the Action's position. However, Applicant would respectfully point out that the current independent claims 73 and 92 recite, respectively:

A method of inhibiting apoptosis in a cell comprising providing, *in vitro*, the cell with a nucleic acid segment encoding a polypeptide comprising SEQ ID NO:2, wherein a Fas and/or TNFRI mediated apoptosis pathway is inhibited in the cell.; and

A method of inhibiting apoptosis in a cell comprising providing, *in vitro*, the cell with a nucleic acid segment comprising at least SEQ ID NO:1, wherein a Fas and/or TNFRI mediated apoptosis pathway is inhibited in the cell.

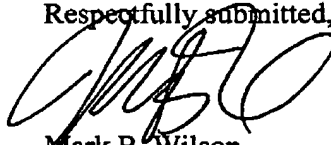
Therefore, this rejection is moot in regard to those claims, and Applicant requests withdrawal of this rejection.

### CONCLUSION

Applicant believes that the foregoing remarks fully respond to all outstanding matters for this application. Applicant respectfully requests that the rejections of all claims be withdrawn because they are in condition for allowance. At the very least, Applicant requests entry of these amendments in order to place the case in better form for an appeal.

Should the Examiner desire to sustain any of the rejections discussed in relation to this Response, the courtesy of a telephonic conference between the Examiner, the Examiner's supervisor, and the undersigned attorney at 512-536-3035 is respectfully requested.

Respectfully submitted,



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